

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

HDMI LICENSING ADMINISTRATOR, INC.,

*Plaintiff and Counterclaim
Defendant,*

v.

AVAILINK INC.

*Defendant and Counterclaim
Plaintiff.*

CASE NO.: 4:22-cv-06947-HSG

**STIPULATED REQUEST PURSUANT TO
CIVIL LOCAL RULE 6-2 TO CHANGE
TIME AND AMEND THE SCHEDULING
ORDER AND ORDER**

Complaint Filed: November 7, 2022

Counterclaims Filed: September 1, 2023

Pursuant to Civil Local Rule 6-2, Plaintiff and Counterclaim Defendant HDMI Licensing Administrator, Inc. (“Plaintiff” or “HDMI LA”), through its counsel of record, and Defendant and Counterclaim Plaintiff Availink Inc. (“Defendant” or “Availink”) (collectively, the “Parties”), stipulate as follows:

WHEREAS, Plaintiff’s Complaint was filed on November 7, 2022;

WHEREAS, on September 1, 2023, Defendant filed an Answer to the Complaint, which included Counterclaims (*Dkt. No. 49*);

WHEREAS, on October 20, 2023, the Court entered its first scheduling order in this matter, which set forth a discovery end date of August 26, 2024 (*Dkt No. 67*);

WHEREAS, in lieu of filing an answer, on October 23, 2023, Plaintiff filed a Motion to Dismiss Defendant’s Counterclaims Pursuant to Fed. R. Civ. P. 12(b)(6) (*Dkt. No. 72*) (the “Pending MTD”);

WHEREAS, on December 6, 2023, Defendant filed an Opposition to the Pending MTD (*Dkt. No. 79*);

WHEREAS, on January 5, 2024, Plaintiff filed its Reply in support of the Pending MTD (*Dkt. No. 81*);

WHEREAS, the Pending MTD, which was initially set to be heard on January 18, 2024 at 2:00

1 PM, was taken off calendar on January 16, 2024, and on submission (*Dkt. No.* 83);

2 WHEREAS, a written decision on Plaintiff's Pending MTD has not yet been issued by the
3 Court;

4 WHEREAS, the Parties each served discovery demands on November 6, 2023, and exchanged
5 initial responses thereto on December 6, 2023;

6 WHEREAS, Plaintiff limited its discovery demands to subjects pertaining to its breach of
7 contract claim, and did not seek any discovery relating to Defendant's Counterclaims in light of the
8 Pending MTD, and the undue burden of discovery relating to the Counterclaims that it believes are not
9 viable;

10 WHEREAS, Defendant's discovery demands sought information and documents relating to
11 Plaintiff's breach of contract claim and the Counterclaims, and Plaintiff objected to any requests
12 seeking information and documents pertaining to Defendant's Counterclaims as premature in light of
13 the Pending MTD, and the substantial burden and expense of discovery relating to the same;

14 WHEREAS, on December 20, 2023, Defendant sent a discovery deficiency letter to Plaintiff,
15 which, among other things, took issue with Plaintiff's decision to not provide Counterclaim-related
16 discovery without filing a motion to stay (the "Deficiency Letter");

17 WHEREAS, on January 4, 2024, Plaintiff, through its counsel, sent an email to Defendant's
18 counsel wherein it responded briefly to the points raised in the Deficiency Letter, and raised certain
19 issues with Defendant's discovery responses (the "1/4 Email");

20 WHEREAS, in the 1/4 Email, Plaintiff indicated that to the extent necessary, it can, and would,
21 move for a protective order;

22 WHEREAS, on January 4, 2024, the Parties, through their respective counsel, conferred on
23 each party's discovery issues (the "1/4 Meet & Confer");

24 WHEREAS, during the 1/4 Meet & Confer, Plaintiff reiterated its position that it would not
25 produce documents pertaining to Defendant's antitrust Counterclaims due to the Pending MTD, and
26 the substantial burden of discovery on the Counterclaims, which Plaintiff believes are not viable, and
27 Defendant stated its position that a stay was necessary to avoid production of Counterclaim-related
28 discovery and that it would file a motion to compel if such relief was not sought by Plaintiff;

WHEREAS, during the 1/4 Meet & Confer, in order to avoid burdening the Court with potentially unnecessary motion practice relating to any motion for a protective order or motion to compel associated with discovery on Defendant's Counterclaims, the Parties agreed that they would seek an extension of the discovery schedule from the Court, which they planned to raise at the scheduled January 18, 2024 hearing for the Pending MTD;

WHEREAS, since, as noted above, the hearing on the Pending MTD was vacated, the Parties did not have an opportunity to speak with the Court about extending discovery;

WHEREAS, on February 7, 2024, Plaintiff supplemented its production;

WHEREAS, on February 16, 2024, the Parties, through their respective counsel had a follow-up phone call wherein the Parties discussed, among other things, Defendant's outstanding document production, a potential solution to avoid motion practice relating to any partial motion to stay discovery relating to Defendant's Counterclaims, and Defendant's concern that the discovery period continued to run while Plaintiff refused to respond to Counterclaim-related discovery requests and that the Parties did not have an opportunity to address a discovery extension with the Court;

WHEREAS, in order to conserve the time and resources of the Parties, as well as the Court, Defendant has agreed to not seek discovery relating to Defendant's Counterclaims until April 15, 2024 or until the Court has ruled on the Pending MTD, whichever date comes first, and in exchange, Plaintiff has agreed to Defendant's proposed extension of the schedule for this case;

WHEREAS, Plaintiff and Defendant reserve their respective rights to file any motion for a protective order or motion to compel after April 15, 2024 or after the Court has ruled on the Pending MTD;

WHEREAS, the Parties propose the following revised dates for the end of fact and expert discovery, amendment of the pleadings, hearings on dispositive motions, the pretrial conference, and trial:

<u>Event</u>	<u>Current Deadline/Date</u>	<u>Proposed Deadline/Date</u>
Amendment of Pleadings/Joinder	June 7, 2024	October 7, 2024
Fact Discovery Cut-off	August 26, 2024	December 26, 2024
Exchange of Opening Expert Reports	September 3, 2024	January 3, 2025

Exchange of Rebuttal Expert Reports	September 24, 2024	January 24, 2025
Close of Expert Discovery	October 10, 2024	February 10, 2025
Dispositive Motion Hearing Deadline	December 5, 2024, at 2:00 p.m.	April 7, 2025, at 2 p.m.
Pretrial Conference	March 4, 2025, at 3:00 p.m.	July 8, 2025, at 3 p.m.
Jury Trial (three weeks)	March 17, 2025, at 8:30 a.m.	July 21, 2025, at 8:30 a.m.

WHEREAS, this is the Parties' first request for an extension of the discovery period;

WHEREAS, the proposed extension will alter the deadlines for expert discovery, the dispositive motion hearing date, and the pretrial conference, as noted above; and

WHEREAS, the Court's decision on the Pending MTD may ultimately impact the amount of time necessary to complete discovery.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS HEREBY STIPULATED by and between the Parties, that the above-referenced revised schedule should be entered by the Court.

Dated: March 6, 2024

EPSTEIN DRANGEL LLP

By: /s/ Kerry Brownlee
Kerry Brownlee
Attorney for Plaintiff

Dated: March 6, 2024

KING & WOOD MALLESONS

By: /s/ Vincent Filardo, Jr.
Vincent Filardo, Jr.**
Attorney for Defendant

** Pursuant to Civ. L.R. 5-1(i)(3), the filer of the document has obtained approval from this signatory.

AMENDED SCHEDULING ORDER

Having read and considered the Stipulated Request Pursuant to Civil Local Rule 6-2 to Change Time and Amend the Scheduling Order, it is approved, and the following is adopted as the revised schedule for this case

<u>Event</u>	<u>Deadline/Date</u>
Amendment of Pleadings/Joinder	October 7, 2024
Fact Discovery Cut-off	December 26, 2024
Exchange of Opening Expert Reports	January 3, 2025
Exchange of Rebuttal Expert Reports	January 24, 2025
Close of Expert Discovery	February 10, 2025
Dispositive Motion Hearing Deadline	April 7, 2025 at 2 p.m.
Pretrial Conference	July 8, 2025 at 3 p.m.
Jury Trial (three weeks)	July 21, 2025 at 8:30 a.m.

IT IS SO ORDERED.

Date: 3/6/2024

